

REMARKS

Applicant thanks the Examiner and the Supervising Examiner James Reagan for participating in the interview held on April 24, 2008. The above amendment of the independent claims was discussed as well as the Blume and Samra references. Applicant pointed out how the independent claims were being amended, and how this feature is not shown or suggested by the applied references. While no agreement was reached, the USPTO did not point to any reference as showing the feature at issue but rather it was indicated that the Examiner would again consider the references and perform a new search.

In the office action dated January 8, 2008, all pending claims 1-22 were rejected. Applicant is amending the independent claims 1, 15 and 22 and some of the dependent claims. Subject matter from dependent claim 9 is being inserted in the independent claims and this claim is therefore canceled without prejudice. As such, claims 1-8 and 10-22 are pending. Favorable consideration of the claims as amended is requested.

The independent claims are being amended to more particularly recite the feature that predictions and customer assignments can be made for two or more steps to be performed consecutively. That is, the independent claims now explicitly recite first and second campaign steps, and that there is formed a target group of customers from those predicted to respond to the first step, and the second step is predicted with regard to the target group. Corresponding changes are made in some dependent claims.

The changes are supported by the present disclosure, for example original dependent claim 9 and the description of the first campaign step 205 and the second campaign steps 207-209 shown in FIG. 2. (Spec. 10:7—13:21; 24:5—25:14.)

Independent claim 15 is amended to clarify that the program instructions are tangibly embodied in a computer-readable medium. This amendment is supported by the description of the computer system 100 shown in FIG. 1. (Spec. 6:23—9:16.)

No new matter is added.

**Rejection under section 112**

Claims 11, 12, 15, 18 and 20-21 and were rejected under § 112, second paragraph. The Examiner took the position that the terms “module” and “optimizing algorithm” are vague and indefinite. This rejection is respectfully traversed.

If the meaning of the claim term can be discerned, the claim is not indefinite. *Bancorp Servs., LLC v. Hartford Life Ins. Co.*, 359 F.3d 1367, 1372 (Fed. Cir. 2004). Moreover, there is nothing inherently wrong with defining subject matter functionally by what it does. *See* MPEP 2173.05(h) and case law authority cited there.

Here, the claim term “module” is used in some of the claims together with functional language, as permitted. Moreover, Applicant uses the claim term to indicate that what is to be covered by the claim at issue is the use of *any* module that performs the function recited in the functional language. As such, the scope of the claim can be discerned, there is no uncertainty regarding the term module, and the claim passes muster under *Bancorp Services*.

Similarly for the term “optimizing algorithm”, claim 11 explicitly recites that the optimizing algorithm is used in assigning the customers to the campaign elements. Applicant uses the claim term to indicate that what is to be covered by the claim at issue is the use of *any* optimizing algorithm to assign the customers to the campaign elements. There is no uncertainty regarding the meaning of “optimizing algorithm” and the term is therefore acceptable. The claims using the term “optimizing algorithm” are therefore neither vague nor indefinite.

#### **Rejections under section 101**

Claims 15, 20 and 22 were rejected under § 101 as allegedly directed to non-statutory subject matter. These rejections are rendered moot by the amendments of independent claims 15 and 22.

Without conceding that the rejections have merit, Applicant submits that independent claim 15 now explicitly recites that the program instructions are tangibly embodied in a computer-readable medium. Independent claim 22, moreover, has been amended to remove language regarding a propagated signal. Applicant requests that the rejections be removed.

### **Rejections under sections 102 and 103**

Claims 1, 5-8, 15-19 and 22 were rejected under § 102(e) as anticipated by U.S. 6,839,682 (Blume). Claims 2-4 were rejected under § 103(a) as unpatentable over Blume in view of U.S. 20020052775 (Fischer). Claims 9 and 13-14 were rejected under § 103(a) as unpatentable over Blume in view of U.S. 7,003,476 (Samra). Claim 10 was rejected under § 103(a) as unpatentable over Blume and Samra in view of Fischer. Claims 11 and 12 were rejected under § 103(a) as unpatentable over Blume and Samra in view of U.S. 6,847,934 (Lin). Claims 20 and 21 were rejected under § 103(a) as unpatentable over Blume in view of Lin.

These rejections are rendered moot by the above amendments. Nevertheless, and without conceding that rejections have merit, Applicant notes the following.

The independent claims as amended relate to a particular situation that is described as an example in the present patent application: after the system predicts customer responses to a first campaign step, how can the possible result of a subsequent second campaign step be estimated? In other words, if I can predict how customers will respond to my first contact with them, how will this affect my subsequent customer contact(s)? The independent claims address this by the language referring to the “first campaign step” and the “second campaign step” and the processing of information. Particularly, the claims recite that customers predicted to respond to a first campaign step are formed into a target group, and it is then predicted what would be the outcome of performing the second campaign step toward the target group. None of the references of record address this situation or answer the exemplary questions above.

Blume relates to segmenting and nearest-neighbor matching in predictive modeling of consumer financial behavior. (Blume title.) As the Examiner noted, in one passage Blume describes that responses to offers can be predicted by selecting a reference set of consumers, obtaining a consumer vector for each of them, and aggregating the response rate among the nearest neighboring consumers in the vector space. (Blume 7:26-43.) However, as the Examiner noted, Blume does not predict several individual consecutive steps of a marketing campaign. (Office action p. 12.) In other words, Blume does not address the issue of how the predicted result of a first campaign step should affect the prediction of a second campaign step.

The Examiner cited to Samra as allegedly disclosing “wherein the marketing campaign comprises at least first and second campaign steps” and referred to number 28 in Samra’s FIG. 2, which mentions previous campaign results. However, a proper reading of Samra reveals that it does not provide the subject matter missing in Blume.

The key word in the cited portion of Samra is “results”. That is, Samra uses the *results* of a previous campaign as a data input to a targeting engine. (Samra 2:28-30.) This is significantly different from predicting which customers will respond to a first step and forming a target group from them, and then predicting the outcome of performing a second campaign step toward the target group. In other words, Samra requires that a previous campaign has been performed. The present subject matter, in contrast, does not require that a previous campaign step has actually been performed.

For at least the above reasons, Blume and Samra do not render the present subject matter of the independent claims unpatentable. These claims, and their corresponding dependent claims, are therefore patentable over Blume in view of Samra.

Fischer and Lin were cited as allegedly showing other features. Without conceding that the Examiner’s characterization of these references are correct, Applicant submits that neither of them provides the subject matter missing from Blue and Samra per the above.

### **Conclusion**

Favorable consideration of claims 1-8 and 10-22 as amended is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Respectfully submitted,

  
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